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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. DORIAN GAYLORD REDUS, Defendant and Appellant.	A145712 (San Francisco City and County Super. Ct. No. 88778)

Appellant Dorian Gaylord Redus appeals from the trial court's order extending his civil commitment at Napa State Hospital under Penal Code section 1026.5[1] until December 3, 2017. He contends substantial evidence did not support the court's finding that his mental illness causes him serious difficulty controlling potentially dangerous behaviors. We shall affirm the trial court's orders.

PROCEDURAL BACKGROUND

On July 3, 2013, the San Francisco County District Attorney filed a petition under section 1026.5 to extend appellant's civil commitment at Napa State Hospital for two additional years. On March 30, 2015, the district attorney filed another petition to extend the commitment for two more years, which included a motion to consolidate the 2013 petition with the new petition.[2]

[1] All further statutory references are to the Penal Code unless otherwise indicated.

[2] A hearing on the 2013 petition had not yet been held due to motions to continue and general time waivers by defense counsel.

On June 19, 2015, the court granted the motion to consolidate the petitions and on July 7, following a three-day court trial, the court extended appellant's commitment until December 3, 2017.[3]

On July 10, 2015, appellant filed a notice of appeal.

DISCUSSION

Appellant contends substantial evidence did not support the court's finding that his mental illness causes him serious difficulty controlling potentially dangerous behaviors.

I. *Trial Court Background*

Dr. Aaron Bartholomew, who had been appellant's treating psychologist for just over a year at the time of trial, testified as an expert in mental disorders and their diagnosis, as well as risk assessments. Dr. Bartholomew believed appellant, who was 69 years old at the time of trial, suffered from a major mental disorder, namely schizoaffective disorder, bipolar type. Appellant experienced significant psychotic symptoms, including paranoia, delusions, and disorganized behavior; those symptoms had "been relatively stable and continuous since about the time of his instant offense and up to this point." He currently did not present with mood problems related to bipolar disorder, although he did exhibit some pressured speech.

Dr. Bartholomew opined that, as a result of his mental disease and disorder, appellant posed a substantial danger of physical harm to others.

Dr. Bartholomew testified that appellant was originally committed to Napa State Hospital in 1975, after he pleaded not guilty by reason of insanity to an offense Dr. Bartholomew described as follows: "[I]n around 1974, [appellant] was cohabiting with a

[3] The court orally ordered appellant's commitment extended to December 3, 2015, under the first petition, and to December 31, 2017, under the second petition. However, the March 2015 petition had asked that appellant's commitment be extended for two years, from December 3, 2015 to December 3, 2017, and the minute order from the last day of trial stated that appellant's commitment had been extended to December 3, 2017. In light of this record, it is apparent that the correct date is December 3, 2017, and the court misspoke when it stated that appellant's commitment was extended to December 31, 2017.

. . . common-law spouse. Around that time, he was also under the care of a psychiatrist. [¶] He began to become symptomatic at that time, and he believed that [his spouse] was trying to harm him and that she had threatened him on several occasions, that they had a history back and forth of problems, and he believed that he was in—he was fearful for his life, and he stabbed her, killing her.

"He later, when he went back to check on the body, found her deceased. And over the course of several days [he] had sex with the body in an attempt to resurrect his wife. [¶] He ultimately put her body in the bed of a pickup truck he had rented, and he . . . went to a lawyer to communicate to them to turn himself in for the offense."

Dr. Bartholomew understood that there were delusions involved in the offense. "One delusion was that he was fearful or paranoid that his significant other was going to harm him or kill him and . . . there is another delusion present at the time of the offense that if someone were [to be] killed or if he were to kill somebody that he could resurrect them by having sex with them, and that people did have the potential to be resurrected after death. There was also a delusion at the time related to the intentions of his psychiatrist at the time. He believed that his psychiatrist . . . had instructed him to return to that relationship and that his psychiatrist was somehow putting him in jeopardy by doing so." Dr. Bartholomew had most recently spoken with appellant the previous day and appellant had "identified the act of killing his wife at the time 'a red herring,' " which appellant believed "meant that there were other more important factors that were going on, namely, that the psychiatrist had ill-will or ill-intent towards him and that there was a concerted effort to either harm him, or not provide adequate treatment . . . ."

Dr. Bartholomew had used the HCR-20 violence risk assessment tool to assess appellant's risk both in the hospital and the community. Twenty factors are used in the test, with each factor receiving a score from zero to two. Of the 10 factors related to previous history, 7 applied to appellant. These included (1) previous history of violence, i.e., the 1974 murder; (2) young age at the time of the incident; he was 28 at the time of the murder, for which he received only one point because he was young, but not in the youngest age category; (3) a history of substance abuse, though appellant's substance

abuse did not appear to be a major contributing factor in the offense; (4) a history of employment instability, in that he was discharged from the Army due to the onset of his mental illness and had not maintained significant employment since; (5) relationship instability; while he had been able to maintain some long-term relationships, he had killed his partner; (6) diagnosis of a major mental disorder, i.e., schizoaffective disorder; and (7) prior supervision failures; he had four such failures. With respect to current clinical factors, four of the five applied to appellant, including (1) lack of insight into his symptoms and offenses, in that his insight into both his symptoms and his offense "kind of wax and wane"; ultimately, there continued to be delusional beliefs that impacted his insight; (2) negative attitudes, which appellant had toward his treatment providers; (3) active symptoms of mental illness, which appellant exhibited; and (4) unresponsiveness to treatment, in that his symptoms still persisted over an extended period of hospitalization and treatment despite psychotropic medication and other interventions. Finally, three of five factors related to future risk applied to appellant, including (1) exposure to destabilizers in the community, including "substances in the community, activities, expectations"; (2) stress as he moved into the community; and (3) past noncompliance with remediation attempts, i.e., his prior unsuccessful attempts in the community.[4]

Also of concern, Dr. Bartholomew did not believe appellant had an adequate relapse prevention plan. His written plan was a "very convoluted" document in which "he expresses his concerns about the system and being done wrong by the system" rather than a tool he could utilize to identify triggers, warning signs, and coping strategies.[5]

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[4] Medical records received in evidence at trial stated that appellant's risk factors, as found in the HCR-20 risk assessment, suggested that he presented a low risk for future violence in the hospital, "and a moderate to high risk for violence if released to the community outside of CONREP if he delusionally perceives maleficent intent from his treatment providers."

[5] Appellant's forensic relapse prevention plan, dated July 4, 2014, was received in evidence at trial. In it, appellant discussed a variety of issues. For example, in response to a question about his mental health triggers, appellant wrote, inter alia, "I am also

Dr. Bartholomew testified that appellant had four failed attempts to succeed under supervision while on the conditional release program (CONREP) and was returned to the hospital each time. Appellant had first been discharged to CONREP in 1988, but was returned to the hospital for six months due to "psychiatric decompensation." He was again hospitalized in 1991 when he was going through a medication change and was unable to psychiatrically stabilize in a reasonable amount of time. Then, in 1994, he was returned to the hospital because he had not been taking his psychiatric medication for several months and, in addition, it was learned that he had married and was living at a different residence without informing CONREP. There was also a medication issue in 2004. Finally, in 2009, appellant was returned to the hospital after relapsing into homicidal ideation and initially failing to inform his treatment providers of his relapse. "He ended up with a thought process that involved wanting to stab somebody," who Dr. Bartholomew believed was a daughter of a professor and pastor.

Dr. Bartholomew testified that appellant's current symptoms of paranoia involved a general distrust of treatment providers, past and present. Specific instances that appellant had shared with Dr. Bartholomew included his original psychiatrist telling him to reengage in his relationship despite the fact that he was being abused in the relationship. Appellant said that "his psychiatrist told him to, like, get a weapon and hurt that person," and that the psychiatrist had "some sort of ill-will towards him." In addition, his most recent CONREP violation occurred in 2009, when he was experiencing

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triggered by, my CONREP's politically motivated therapy namely their awful calumny alleging that I child molested. CONREP has also alleged my psychiatric dysphoria is my delusional opinion; and thus, not due to misfeasant [*sic*], drugs namely psychiatric drugs used by them to rape my very subjective feelings until I felt infantile, deliciously absurd . . . ." Also, regarding his early warning signs action plan related to criminal behavior, appellant wrote, "Anent: my personal, my family, and societal consequences, I know a devil when I see a devil, and my devils know me and what I may and may not do . . . if they tempt me." Appellant also wrote that his action plan for high risk situations related to criminal behavior included, "Break no laws, break no laws, and break no laws; publish, publish, and publish; knowing that my favorite observable universe is a S.T.S. (space-time sphere) that is intellectually made of God the father Almighty's R.C.TV.U. (relativistic color television universe)."

homicidal ideation. He reported that he was hesitant to disclose that information to treatment providers due to his distrust of them, although he ultimately did so, which resulted in his being returned to the hospital. Dr. Bartholomew was concerned that if appellant again experienced homicidal ideation, he would fail to disclose it, which could lead to violence. As the doctor explained, "when his thought process does kind of go towards the delusional, it potentially starts creeping into that category where he may not be able to tell the difference." The concern was that if he felt threatened or angry, appellant could respond with violence in a way that did not reflect the reality of the situation.

Appellant also exhibited distrust and lack of insight in his ambivalence about taking his psychotropic medication, although he was currently taking his medications in the hospital. He also had some perspective on his previous delusions being inaccurate, but he currently had several delusions related to his belief in a "relativistic color TV universe," which displayed a "bizarre and odd way of looking at the world that continues to be potentially problematic." Appellant had told Dr. Bartholomew the day before that his beliefs were not much different from people's religious beliefs, which demonstrated a minimization of the significance of his peculiar belief system.

On cross-examination, Dr. Bartholomew acknowledged that it was not unreasonable for appellant to exhibit some distrust of CONREP given that he was recommitted once he admitted his homicidal ideation to his treatment providers. However, his paranoia toward treatment providers had "extended pretty continuously" since the 1974 offense. Also, while appellant's feelings about CONREP had improved as its personnel had changed over time, he had expressed recent concern that a former CONREP worker with whom he had a positive relationship "was removed from her position . . . because they were having a positive interaction."

Dr. Bartholomew further testified on cross-examination that appellant had no record of violence before the 1974 offense and that he had not been physically or verbally aggressive during his hospitalization. He had continued to participate in treatment and attended all required groups. He did not typically display acute signs of illness, and

therefore presented "as one who is not experiencing symptoms." He did, however, continue to have active symptoms. In addition to delusions and paranoia toward previous treatment providers, he continued to express disorganization and tangential speech. Thus, he had "responded somewhat to treatment."

Appellant also testified at the hearing. Much of his testimony involved lengthy narrative answers and reading from an unpublished book he had written entitled "Thing 1, Thing 2, and 3, U.C. Berkeley's Alex." Appellant testified that he had been diagnosed with schizoaffective disorder for many years. He mentioned two instances when he was described as delusional, testifying, "I, Dorian Redus, was not delusional. But I have a credibility problem."

Regarding CONREP, appellant testified "there are reasons for me to be careful and say CONREP is hanging around with the wrong crowd, if that's the only thing Napa prepares me for is CONREP. This may be out of the pot and into the fire." The last several visits he had with CONREP staff had been positive. "But in 2005, there was a reason to start keeping secrets. . . ." In 2008, appellant learned that another CONREP patient in his group had been found dead a block from where the group was held. "Now, I don't know if someone killed him. That occurred to me while I was getting the strength to wash this up. But I do know that shook my foundation. I said, I always knew you could get killed for child molest. Why are they putting me in jeopardy? So in my writing, I said CONREP had dicey or dangerous therapy, and dapid [*sic*] therapy. Crazy. There was nothing in my whole life to point the finger of guilt, and they wouldn't stop; so I started hearing voices when I got out of that situation. [¶] And the first tricky voice was with the pregnant woman[[6]] because I said I bet my wife still feels bad that she said, 'I'll give you a child,' and the next day, I'm gone. . . ."

Appellant denied having experienced homicidal ideation in 2009, testifying instead that he "had some intrusive thoughts." In his testimony, appellant corrected

[6] The pregnant woman appellant mentioned apparently was the woman Dr. Bartholomew had testified appellant had thoughts about stabbing in 2009, while in the community.

statements in his medical records regarding the circumstances of his supposed homicidal ideation: " 'While he was having a conversation with a classmate'—I was not talking to her—'he thought about stabbing her in the heart with a pencil.' Now, really, I think I was there first—it's a giant classroom, almost as big as this courtroom, and I'm in the first row. She's extremely pregnant. And I think this is beautiful. But I did have a sad mood from it" due to the situation with his wife, who wanted to have a baby.

Appellant also testified, "Now, about me telling about symptoms. I had no symptoms from October 1, to 2009. Then I had a warning sign triggered by Dr. Jack. . . . His face began to more and more on glimpse or inklings appear like a Hippocratic face. A Hippocratic face is a face before death. It was grotesque and it was distracting." This was the only recent hallucination he had experienced.

Appellant testified that he was "[m]ost aware" of his symptoms. When counsel asked if he reported his symptoms when he had them, appellant responded, "Well, see, mostly, I don't report them. When I don't report them, they say he's not honest. He's delusional. He won't tell the symptoms. We'll help him when he tells us his symptoms. . . . But I think that it's so close to a mafia, I'll drink to my idea. A mental health mafia is the way I view the sedition that's attacking my government." When counsel said she was "really not clear," and asked, "When you have symptoms, what do you do?" appellant responded, "Immediately report them." He then mentioned the fact that he did not trust CONREP and did not initially report to CONREP that he was hearing voices in 2009. But he eventually did report the voices, "[a]nd frankly, I think CONREP is not part of the solution but part of the problem."

When counsel asked if he would continue to take his medications if he were released, appellant responded that he would do so. In addition, if he were out in the community and started having symptoms, he would tell his daughter and "would in general think, have I missed any medication? Is there a cause for it? Did I eat any old food—stuff like that." He would also talk to a counselor at the Veteran's Administration where he would be in day treatment groups.

Dr. John Watts Podboy, a clinical forensic psychologist, testified for the defense as an expert in forensic psychology and risk assessment. Dr. Podboy had first met appellant the previous year and, since then, had talked to him on the phone 20 to 30 times. Dr. Podboy agreed with the diagnosis of schizoaffective disorder, bipolar type, but had seen no evidence of active symptoms of that disease in his contacts with appellant or the review of his records. There was no evidence that in the last year he had suffered from paranoia, delusions, or disorganization. Dr. Podboy believed that appellant was "very organized" in his writings, in which he had "talked about concerns that he has of maltreatment or mistreatment that he's had in the past. He's referred to pharmacological rape, which he feels has occurred to him at the hands of various physicians. But you can sit and talk with him about it. He can be redirected." Although appellant tended to speak "at great length, almost nonstop," Dr. Podboy did not believe that was a symptom of his mental illness.

Dr. Podboy testified that appellant felt that the medication he currently received helped him and allowed him to function satisfactorily. Dr. Podboy believed that appellant's lack of symptoms was a result both of his taking his medication and "the process of maturation," now that he was 69 years old. There was no evidence of any violence by appellant since the 1974 killing. He did suffer from symptoms of schizophrenia in 2009 regarding "the possibility of some violence towards a female," which was never acted upon. There was only "a slight delay" in reporting those symptoms to CONREP. Dr. Podboy was not concerned about the delay, but instead thought it was "admirable and helpful" that appellant had reported his symptoms and did not act on them.

There was no evidence in anything Dr. Podboy had reviewed or in his conversations with appellant that would indicate that appellant had serious difficulty controlling his dangerous behavior. Nor did Dr. Podboy believe appellant posed a substantial danger of physical harm to others. This was because he was well adjusted on his ward, had received compliments and awards for being a good citizen, and seemed well liked by other patients. The doctor believed that an individual's behavior was the

most important measure of potential dangerousness, and he had seen nothing in appellant's records indicating any behavior in the last five years that would be a concern in that regard. Dr. Podboy also had discussed with appellant his relapse prevention plan, which was well thought out. Appellant planned to live with his daughter, who had a room for him in her home. He also would be able to see his grandchildren. Dr. Podboy believed appellant would continue to take his medication in an unsupervised environment. Appellant had said he thought it was important to do so.

Dr. Podboy knew that appellant had concerns about some treating personnel in the past, but his comments about his current treatment team were positive. Dr. Podboy did not agree that appellant had a general distrust of his treatment providers and had no concern about appellant being unable to control his behavior in the community, including toward women. Nor did he find any evidence that appellant had had any supervision failures; he did not believe that appellant's hospitalizations for medication readjustments and due to his delayed reporting constituted supervision failures. Dr. Podboy opined that appellant no longer posed a substantial danger of physical harm to others because the medications he was taking controlled his conditions, and Dr. Podboy believed appellant would continue to take those medications in the community.

On cross-examination, Dr. Podboy acknowledged that appellant did not completely accept his diagnosis and there was some lack of insight into the fact that he suffered from a mental disorder. Appellant also had some past issues with taking medication. Dr. Podboy had reviewed only a portion of appellant's medical records from Napa State Hospital, but was familiar with a medical record dated January 14, 2015, which indicated that appellant was "insistent . . . on medication holidays and has a past history of stopping medication in the community." Dr. Podboy also understood that appellant had experimented with not taking his medication for a year while in the community in 2009, when concerns arose about his thoughts and feelings and he was recommitted. Since then, he had been "absolutely committed to taking this medication that he is very pleased with . . . ."

Dr. Podboy was familiar with the report regarding the most recent revocation of appellant's conditional release. He understood the report to state that appellant was "angry and feeling assaultive," but believed the "homicidal aspect" was "editorialization on the part of the writer." Dr. Podboy would be surprised to learn that appellant had testified that he heard voices telling him to kill a pregnant woman while he was on conditional release. He had talked with appellant the night before and appellant had not mentioned that fact. Moreover, even if true, that fact would not change his opinion in any way because it had occurred over five years ago, was "isolated," and appellant had been doing very well since then. With respect to the 1974 murder, appellant had "tried to give it some semblance of reasonableness" when he told Dr. Podboy that it " 'was in self-defense, allowed by my iatrogenesis doctor-caused delusions and paranoia.' " Dr. Podboy did not believe appellant's explanation amounted to a denial of culpability, but instead believed he was trying to put it in understandable terms.

Dr. Podboy believed that appellant "has some thought processes that can be considered to be very unusual, bizarre, some might identify them as being psychotic; but . . . they don't manifest themselves behaviorally . . . ." He also acknowledged that the medical reports indicated appellant was at low risk of violence while in the hospital, but would be at high risk if left unsupervised in the community.

At the conclusion of the trial, the court found that the district attorney had proved beyond a reasonable doubt that appellant "suffers from a mental disorder, defect disorder [*sic*], and as a result of that mental disease, defect or disorder he poses a serious danger of physical harm to others. [¶] . . . [¶] He has a serious difficulty in controlling his dangerous behavior, [and] the defense has not established by a preponderance of the evidence that he no longer poses a substantial danger of physical harm to others because [he] is now taking medication that controls his mental condition and that he will continue to take the medication in an unsupervised environment.

"What is clear to me is that [appellant] will take the medication and it makes a serious enhancement to his ability to control his symptoms and to stay out of danger. It's been demonstrated by his last year in the hospital and more. He needs to be taking the

medication, and I'm not convinced based on the testimony that I have that [he] has the depth of that understanding to know that he would take the medication and stay drug free without the support of others at this point in time." The court therefore granted the two petitions for two-year extensions, through December 3, 2017.

II. *Legal Analysis*

Under section 1026.5, subdivision (a)(1), a person committed to a state hospital after being found not guilty of an offense by reason of insanity pursuant to section 1026 "may not be kept in actual custody longer than the maximum term of commitment." (§ 1026.5, subd. (a)(1).) However, under section 1026.5, subdivision (b)(1), a person may be committed beyond the term prescribed by subdivision (a) if the person "has been committed under Section 1026 for a felony and," after a trial, the trier of fact finds the person "by reason of mental disease, defect, or disorder represents a substantial danger of physical harm to others." (§ 1026.5, subd. (b)(1) & (b)(3).) In that case, the person may be recommitted "for an additional period of two years from the date of termination of the previous commitment." (§ 1026.5, subd. (b)(8).)

"[T]o satisfy the constitutional requirement of due process, a commitment may be extended under section 1026.5, subdivision (b)(1), only if there is substantial evidence that [the person] had, 'at the very least, serious difficulty controlling his potentially dangerous behavior.' [Citations.] This requirement follows from the fundamental principle that ' "civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." ' [Citations.]" (*People v. Sudar* (2007) 158 Cal.App.4th 655, 662 (*Sudar*), citing *In re Howard N.* (2005) 35 Cal.4th 117, 127; accord, *People v. Zapisek* (2007) 147 Cal.App.4th 1151, 1165 (*Zapisek*); *People v. Kendrid* (2012) 205 Cal.App.4th 1360, 1370.) Still, " 'in cases where lack of control is at issue, "inability to control behavior" will not be demonstrable with mathematical precision. It is enough to say that there must be proof of *serious difficulty* in controlling behavior.' " (*People v. Williams* (2003) 31 Cal.4th 757, 772, quoting *Kansas v. Crane* (2002) 534 U.S. 407, 413.)

" ' " 'In reviewing the sufficiency of the evidence to support a section 1026.5 extension, we apply the test used to review a judgment of conviction; therefore, we review the entire record in the light most favorable to the extension order to determine whether any rational trier of fact could have found the requirements of section 1026.5(b)(1) beyond a reasonable doubt. [Citations.]' [Citation.]" [Citation.] A single psychiatric opinion that an individual is dangerous because of a mental disorder constitutes substantial evidence to support an extension of the defendant's commitment under section 1026.5. [Citations.]' [Citation.]" (*Zapisek*, *supra*, 147 Cal.App.4th at p. 1165, quoting *People v. Bowers* (2006) 145 Cal.App.4th 870, 878-879.)

Here, appellant does not dispute that he suffers from schizoaffective disorder or challenge the court's prediction of future dangerousness. He claims only that there is insufficient evidence to support the court's finding that he had "serious difficulty controlling his potentially dangerous behavior." (*Zapisek*, *supra*, 147 Cal.App.4th at p. 1165.) He points out that Dr. Bartholomew did not specifically offer an opinion on this question. Therefore, according to appellant, "there must have been some evidence about appellant's current behavior upon which the trial court could have relied." He maintains there was not.

The court found that appellant has serious difficulty controlling his dangerous behavior based on the facts that (1) he needed to be taking his medication to control his psychotic symptoms and dangerous behavior, and (2) he did not have sufficient insight into his mental illness to ensure that he would continue to take his medication outside of the hospital. As we shall explain, the court's findings were supported by substantial evidence. (See *Zapisek*, *supra*, 147 Cal.App.4th at p. 1165.)

The relevant evidence included Dr. Bartholomew's conclusion that appellant suffered from schizoaffective disorder, and that he presently experienced significant psychotic symptoms, including paranoia, delusions, and disorganized behavior, which had "been relatively stable and continuous" since his 1974 commitment offense. Appellant's symptoms of paranoia involved fear about the intentions of other people, primarily treatment providers, starting with the psychiatrist who was treating him at the

time he killed his wife. Another example of this paranoia occurred when he had been returned to the hospital in 2009, after delaying disclosure to CONREP treatment providers about the homicidal ideation he was experiencing, as well as his medication noncompliance. He had reported that he was hesitant to disclose his symptoms because he distrusted the CONREP treatment providers.[7] Dr. Bartholomew was concerned that if appellant again experienced a delusion leading to homicidal ideation, he would fail to disclose it, which could lead to violence.

Appellant's testimony at trial about CONREP and hospital treatment providers also reflected his paranoia. For example, he said "there are reasons for me to be careful and say CONREP is hanging around with the wrong crowd, if that's the only thing Napa prepares me for is CONREP. This may be out of the pot and into the fire." He also testified about a recent hallucination involving a treatment provider at the hospital where he "had a warning sign triggered by Dr. Jack," whose face began to "appear like a Hippocratic face," which "is a face before death. It was grotesque and it was distracting." When counsel asked whether he reported his symptoms to his treatment providers, appellant initially said that, mostly, he did not report them and described treatment providers at the "Center for Special Problems" as "[a] mental health mafia," which was "the way I view the sedition that's attacking my government." When counsel repeated the question, appellant responded that he immediately reported his symptoms, but subsequently said that, "frankly, I think CONREP is not part of the solution but part of the problem."

Regarding delusions and other problematic symptoms, Dr. Bartholomew testified that appellant's current delusions related to his belief in a "relativistic color TV universe," which "impact[ed] his insight." Dr. Bartholomew's concern about appellant's continuing delusions was that if he were to feel threatened or angry, he could respond with violence.

[7] Appellant also had married and changed his address in 1994, without notifying CONREP.

In addition, appellant's testimony at trial was rambling and at times incoherent, reflecting current delusional and disorganized thinking. Dr. Podboy testified about appellant's manuscript, "a Quotidian Quash: From Mental Hygiene to Mental Health, 1969 to 2011," acknowledging that his writings provided evidence that appellant was, at times, suffering from underlying psychotic processes. Dr. Podboy further testified that appellant had some thought processes that could be considered "very unusual, bizarre, some might identify them as being psychotic," though Dr. Podboy did not believe they "manifest themselves behaviorally."

The court's finding regarding appellant's difficulty controlling his behavior was further supported by appellant's score on the HCR-20 risk assessment, which suggested that he presented a moderate to high risk for violence if released, if his delusions caused him to perceive evil intent from treatment providers. In addition, Dr. Bartholomew did not believe appellant's written relapse prevention plan was adequate, in that it expressed his concerns about the system, but was not a tool for identifying triggers, warning signs, and coping strategies.

All of this evidence showed that appellant continues to suffer from schizoaffective disorder, with current symptoms—including paranoia, delusions, disorganization, and lack of insight—many of which were also present at the time of the commitment offense. (See *Zapisek, supra,* 147 Cal.App.4th at p. 1166 [defendant's "delusions were of the same type as those he experienced when he committed the 1997 assault"]; *Sudar, supra,* 158 Cal.App.4th at p. 663 [defendant continued to suffer from same delusion that was operating when he committed offense that led to his institutionalization].)

The evidence presented at trial also supported the court's finding that appellant's psychotropic medication helped to keep him from experiencing more dangerous symptoms and acting out while in the hospital, but that appellant lacked insight about his mental illness and the need to continue taking his medication. Although he acknowledged his schizoaffective disorder diagnosis, he denied having been delusional, stating instead that he had "a credibility problem." He also acknowledged having gone off of his medications while in the community, but claimed it only happened one time.

Dr. Bartholomew testified that there were instances when appellant failed to disclose his lack of compliance with his medication regimen or the symptoms he was experiencing. Even Dr. Podboy acknowledged that appellant had been resistant to medication and had a history of not taking his medication while in the community. Dr. Podboy also testified that appellant had described to him being the victim of "pharmacological rape" at the hands of various physicians. Finally, the evidence showed that appellant had been recommitted to the hospital in 2009 after he went off his medication and experienced homicidal ideation.

In light of his ongoing paranoia about and distrust of service providers, together with his lack of insight about his condition and ambivalence regarding the need for medication, the trial court reasonably found that appellant had not shown that he would comply with his treatment plan and continue taking his medication outside of the hospital. (See *Zapisek*, *supra*, 147 Cal.App.4th at p. 1166; see also *People v. Bolden* (1990) 217 Cal.App.3d 1591, 1601 [construing section 1026.5 to require a person "who has been absolved of criminal responsibility for a felony because of his mental illness and who has already demonstrated his dangerousness to persuade the trier of fact, by a preponderance of the evidence, that his medication is effective in controlling his behavior and he will, in a completely unsupervised environment, take his medication without fail"].)

Appellant nevertheless argues that because he followed the rules and routines of the hospital, and was quiet, calm, and medication compliant, the finding that he was at serious risk of *current* dangerousness cannot be sustained. He maintains that the focus must be on whether he was unable "to control his behavior at the time of trial, not on how he might behave if released in the future."

In *Zapisek*, the defendant similarly argued that the expert opinions presented at trial amounted to mere speculation regarding future dangerousness. (*Zapisek*, *supra*, 147 Cal.App.4th at p. 1167.) In rejecting that argument, a panel of this Division explained that the expert testimony at trial made clear that the defendant, who also was diagnosed with schizoaffective disorder, continued to suffer from delusions and paranoia despite his

treatment with antipsychotic medications and "was likely to deteriorate in an unstructured environment outside the hospital." (*Id.* at p. 1166.) Most importantly, his delusions "were of the same type as those he experienced when he committed the [commitment offense]. (*Ibid*.) In addition, the defendant had not completed the mandated relapse prevention plan and, on one occasion, had only pretended to take his medication. (*Id.* at pp. 1165-1166.) Finally, while the defendant had not committed any acts of violence in the hospital, he had acted out, such as when he covered alarm sensors with tape because he believed them to be video cameras that were tracking him. (*Id.* at pp. 1155, 1168.) We found this evidence sufficient to show that the defendant had, "at the very least, serious difficulty controlling potentially dangerous behaviors . . . ." (*Id.* at p. 1166.)

Here, the evidence supporting the court's finding that appellant has serious difficulty controlling dangerous behavior is similar to the evidence cited in *Zapisek*. In this case, while there was no evidence that appellant had acted out while on medication in the hospital, there was evidence that appellant did not agree that he suffered from paranoia and delusions, which had in fact continued from the time of the commitment offense to the present; his HCR-20 risk assessment results indicated he would be at moderate to high risk of violence if released; he did not have an adequate relapse prevention plan; and there was doubt about the likelihood of his treatment compliance in the community, based on his paranoia, his stated ambivalence about treatment providers and his medication, and his most recent outpatient history. (See *People v. Kendrid*, *supra*, 205 Cal.App.4th at p. 1370 [" 'there may be "considerable overlap between a . . . defective understanding or appreciation and . . . [an] ability to control . . . behavior" ' "].) Indeed, during his most recent release, even after some 34 years of treatment, appellant had gone off his medications and again experienced delusions related to the desire to stab a woman. This evidence demonstrates that the court's findings, like those of the trial court in *Zapisek*, were not based on mere speculation about the future. (See *Zapisek*, *supra*, 147 Cal.App.4th at pp. 1165-1166; see also *Sudar*, *supra*, 158 Cal.App.4th at p. 663.)

In conclusion, having reviewed the entire record in the light most favorable to the extension order, the evidence supports the trial court's finding that appellant has "serious difficulty controlling potentially dangerous behaviors." (*Zapisek, supra*, 147 Cal.App.4th at p. 1166; see also *People v. Williams*, *supra*, 31 Cal.4th at p. 772.)

DISPOSITION

The orders extending appellant's commitment are affirmed.

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Kline, P.J.

We concur:

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Stewart, J.

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Miller, J.

People v. Redus (A145712)